

Message Text

CONFIDENTIAL

PAGE 01 TOKYO 11560 01 OF 04 020817Z

20

ACTION EB-07

INFO OCT-01 EA-07 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

OIC-02 AF-08 ARA-06 EUR-12 NEA-10 /139 W

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R 020630Z AUG 76

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1271

INFO USDEL MTN GENEVA

USMISSION GENEVA

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 1 OF 4 TOKYO 11560

E.O. 11652: GDS

TAGS: ETRD, GATT, MTN, JA

SUBJ: BILATERAL CONSULTATIONS WITH GOJ ON MTN, JULY 29-30

1. SUMMARY. FRANK, FRIENDLY AND BUSINESSLIKE ATMOSPHERE PREVAILED AT BILATERAL MTN TALKS IN TOKYO WITH GOJ. GOJ SIDE WAS WELL PREPARED, THOUGH THERE REMAIN SEVERAL ISSUES ON WHICH THEY HAVE YET TO AGREE INTERALLY ON SUBSTANTIVE POSITIONS. MOFA AND MITI REPS COMMENTED PRIVATELY THAT PRESSURE EXERTED BY U.S. FOR DETAILED DISCUSSIONS PROVED USEFUL IN FORCING OTHER MINISTRIES TO FOCUS ON MTN ISSUES. U.S. STRESSED COMMONALITY OF INTEREST BETWEEN U.S. AND JAPAN ON MANY MTN ISSUES, AND STRESSED THAT IT IS IMPORTNT FOR JAPAN TO BECOME MORE ACTIVE IN THE MTN. U.S. POSITION CLARIFIED ON SEVERAL ISSUES THAT HAD APPARENTLY BEEN MISCONSTRUED IN TOKYO. JAPANESE POSITIONS ON SEVERAL ISSUES, ESPECIALLY TARIFFS, WERE ALSO CLARIFIED. AMBASSADOR YEUTTER ALSO HELD USEFUL INDIVIDUAL DISCUSSIONS WITH KEY DECISIONMAKERS IN MFA, MOF, MITI AND MAF WHICH WE ARE REPORTING SEPARATELY. END
CONFIDENTIAL

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PAGE 02 TOKYO 11560 01 OF 04 020817Z

SUMMARY.

2. U.S.-JAPAN BILATERAL CONSULTATIONS ON MULTILATERAL TRADE NEGOTIATIONS (MTN) WERE HELD IN TOKYO ON JULY 29-30, 1976. U.S. SIDE, LED BY DEP. STR YEUTTER, CONSISTED OF KELLY AND POMERANZ OF STR, NEWKIRK OF MTN GENEVA, BUTTON AND PIEZ OF EMBASSY TOKYO AND MEYER OF EB/ITP. WATKINS OF COMMERCE SAT IN ONLY FRIDAY SESSIONS. JAPANESE SIDE WAS LED BY MIZOGUCHI OF MOFA. ALSO PRESENT FOR GOJ WERE MATSUDA OF MOFA, KURODA, KUSAKABE AND WAKEBE OF MITI, SAKOMIZU AND IZEKI OF MOFA, AND MOTOHASHI AND AZUMA OF MAF.

3. AMB. YEUTTER LED OFF MORNING SESSION JULY 29 BY REAFFIRMING THAT U.S. VIEWS ACHIEVEMENT OF END OF 1977 TARGET DATE FOR COMPLETION OF MTN AS NOT ONLY FEASIBLE, BUT NECESSARY IF WE ARE TO ACHIEVE A MAXIMUM LEVEL OF LIBERALIZATION. HE POINTED OUT THAT ECONOMIC CONDITIONS AND POLITICAL TIMING WOULD LIKELY BE MORE PROPITIOUS AT THE END OF 1977 THAN AT ANY FUTURE DATE. HE CALLED FOR THE EXERCISE OF POLITICAL WILL BY THE MAJOR PARTICIPANTS IN ORDER TO ACHIEVE THE 1977 GOAL. HE REASSURED THE JAPANESE THAT ANY CHANGE IN LEADERSHIP IN THE U.S. AFTER THE 1976 ELECTIONS WOULD HAVE NO EFFECT ON OUR COMMITMENT TO A SUCCESSFUL MTN, AS OUR COMMITMENT IS BASED ON BROAD AND SOLID BIPARTISAN SUPPORT.

4. AMB. YEUTTER THEN ASKED FOR CONFIRMATION OF JAPANESE SUPPORT FOR A TNC MEETING IN FEBRUARY OR MARCH OF 1977 TO GIVE THE MTN THE NECESSARY POLITICAL IMPETUS. HE ALSO ASKED WHETHER GOJ WOULD BE INTERESTED IN A PREPARATORY MEETING OF MAJOR PARTICIPANTS IN THE FALL OF THIS YEAR TO LAY THE GROUNDWORK FOR THE PROPOSED TNC.

5. MIZOGUCHI REPLIED THAT THE GOJ SUPPORTED THE IDEA OF A TNC IN EARLY 1977. THEY WERE NOT NOW IN A POSITION TO RESPOND DEFINITELY TO OUR PROPOSAL FOR A PREPARATORY MEETING, BUT IN PRINCIPLE THE GOJ HAD NO OBJECTION.

6. SUBSIDIES/CVC: DISCUSSION THEN TURNED TO SUBSIDIES AND COUNTERVALUING DUTIES. MIZOGUCHI LED OFF BY CHIDONG
CONFIDENTIAL

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PAGE 03 TOKYO 11560 01 OF 04 020817Z

U.S. FOR FAILURE TO APPLY GATT PROVISIONS 8 I.E., ARTS. VI AND XVI) "IN TOTO". HE SAID JAPANESE DESIRE IS TO HAVE ALL NATIONS APPLY THE GATT AS WRITTEN. THE GOJ, SAID MIZOGUCHI, IS NOT INFLEXIBLE AS TO THE WAYS BY WHICH THIS GOAL CAN BE REACHED, BUT BELIEVES WE SHOULD MOVE TOWARD IT IN THE MTN.

7. AMB. YEUTTER REPLIED THAT IN OUR VIEW THE GATT PRO-

VISIONS ON SUBSIDIES AND COUNTERVAILING DUTIES WERE TOTALLY INADEQUATE TO PROTECT THOSE HARMED BY SUBSIDIZED EXPORTS, BOTH DIRECTLY AND IN THIRD MARKETS. OUR OBJECTIVE IN THE MTN IS TO OBTAIN A SUBSIDIES/CVD CODE THAT WILL ALLOW THOSE HARMED BY DIRECT SUBSIDIES TO COUNTERVAIL WITHOUT HAVING TO PROVE INJURY. IF AN INJURY CLAUSE IS TO BE INCLUDED IN ANY CODE, A VERY PERSUASIVE CASE WOULD HAVE TO BE MADE BY ITS PROPONENTS. IN ANY CASE, HE POINTED OUT, POLITICAL REALITIES IN THE U.S. REQUIRED THAT, TO STAND A CHANCE OF APPROVAL, ANY SUBSIDIES/CVD CODE CONTAINING AN INJURY PROVISIONS MUST ALSO CONTAIN VERY STRONG DISCIPLINE OVER BOTH INDUSTRIAL AND AGRICULTURAL SUBSIDIES. FAILURE TO REACH AGREEMENT ON A CODE, HE WARNED, COULD WELL LEAD TO A BREAKDOWN OF THE MTN AND VERY LIKELY TO A MAJOR TRADE WAR WITH THE EC OVER THEIR AGRICULTURAL SUBSIDIES.

8. AMB. YEUTTER THEN NOTED THAT JAPANESE SELF-INTEREST WOULD SEEM TO LIE IN FAVORING BASIC U.S. POSITION. SUBSIDIES CAN PERMIT OTHER NATIONS TO PENETRATE OUR INTERNAL MARKETS AND CAN ALSO HAVE A SIGNIFICANT ADVERSE EFFECT ON OUR THIRD COUNTRY MARKETS. ISOLATION OF THE EC AGRICULTURAL MARKET THROUGH CAP SUBSIDIES LEADS TO A "THINNER" INTERNATIONAL MARKET AND INCREASES THE BURDEN PLACED ON THE U.S. AND JAPAN TO ADJUST FOR CHANGES IN WORLD AGRICULTURAL PRICES.

9. MIZOGUCHI REPLIED THAT JAPAN FAVORED DISCIPLINING BOTH THOSE WHO SUBSIDIZE AND THOSE WHO EMPLOY CVD'S THROUGH APPLICATION OF GATT ARTS. VI AND XVI, WITH USE OF ART. XIII AND XXIII PROCEDURES TO ENFORCE DISCIPLINE WHEN NECESSARY. HE SAID SUBSIDIES/CVD CODE SHOULD BE AIMED AT MAKING THESE PROVISIONS MORE EFFECTIVE BY DEALING WITH THE PROBLEM OF SUBSIDIZATION INTO THIRD MARKETS AND BY

CONFIDENTIAL

PAGE 04 TOKYO 11560 01 OF 04 020817Z

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 TOKYO 11560 02 OF 04 020806Z

15
ACTION EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1272

INFO USDEL MTN GENEVA

USMISSION GENEVA

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 2 OF 4 TOKYO 11560

DEVELOPING AN "ILLUSTRATIVE LIST" OF COUNTERAVAILABLE
SUBSIDY PRACTICES BASED ON THE 1960 WP LIST.

10. KURODA OF MITI THEN ASKED FOR OUR VIEWS ON HOW TO
GIVE LDCS S AND D IN ANY SUBSIDIES/CVD CODE AND HOW TO
HANDLE LDCS WHO DID NOT JOIN THE CODE. AMB. YEUTTER
REPLIED THAT OUR VIEWS ARE NOT YET FIXED. HOWEVER,
WE ARE PREPARED TO CONSIDER THE POSSIBILITY OF RE-
QUIRING A SHOWING OF INJURY FOR LDC SUBSIDIES THAT WOULD
NOT BE REQUIRED IF THE SAME PRACTICE WERE MAINTAINED BY
A DC. IF THIS WERE DONE, THE PROBLEM OF "GRADUATION" WOULD
ALSO HAVE TO BE ADDRESSED SO THAT LDCS WOULD NOT BE
PERMANENTLY FAVORED OVER DCS. WITH REGARD TO LDC NON-
ADHERENTS, HE STATED THEY WOULD RECEIVE NO S AND D
BENEFITS UNLESS THEY AGREED TO THE CODE (I.E., CONDITIONAL
MFN). IN THIS CONNECTION, MR. KELLY REFERRED TO AN
IDEA PUT FORWARD ON A PERSONAL BASIS BY AN EC REPRESENTA-
TIVE WHICH CALLED FOR A FINAL PROTOCOL TO MTN THAT WOULD
REQUIRE NON-ADHERENTS OF CODES TO ACCEPT CONDITIONAL
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PAGE 02 TOKYO 11560 02 OF 04 020806Z

MFN IF THEY WISHED TO BENEFIT FROM OTHER CONCESSIONS
NEGOTIATED IN THE FINAL PACKAGE. WE ARE STUDYING THIS PROPOSAL,
HE SAID.

11. STANDARDS: AFTERNOON SESSION JULY 29 DEALT WITH
STANDARDS CODE. DISCUSSION LED OFF WITH AMB. YEUTTER CALL-
ING ON GOJ TO JOIN US IN PRESSING EC TO ACCELERATE THE
STANDARDS NEGOTIATIONS. SINCE CODE COULD BE SELF-BALANCING,
HE ARGUED, THERE IS NO NEED TO WAIT UNTIL THE END OF THE

MTN TO PUT IT INTO FINAL FORM, OR AT LEAST "NEAR FINAL" FORM.

DISCUSSION THEN MOVED TO SPECIFIC AGENDA ITEMS:
NATIONAL TREATMENT: JAPAN AGREED WITH U.S. THAT IMMEDIATE NATIONAL TREATMENT IN CERTIFICATION SYSTEMS IS THE PROPER WAY TO GO, AND THAT EC PROPOSAL FOR DELAYED NATIONAL TREATMENT UNTIL REGIONAL SYSTEMS BECOME "OPERATIONAL" IS NOT FEASIBLE NOR DESIRABLE.
CONDITIONAL MFN: JAPANESE AGREED THAT AS A "WORKING HYPOTHESIS" THEY WOULD SUPPORT STANDARDS CODE CONTAINING CONDITIONAL MFN.

DEFINITIONS: JAPANESE WERE BASICALLY NON-COMMITAL. KURODA OF MITI AGREED ON A "PERSONAL BASIS" THAT IT WOULD BE BETTER TO ACCEPT THE ADEQUATE, IF NOT PERFECT, ISO/ECE DEFINITIONS WITH SUITABLE IN-TEXT MODIFICATIONS RATHER THAN ATTEMPTING TO NEGOTIATE IDEAL DEFINITIONS. KURODA ASKED IF PRIVATE ORGANIZATIONS SUCH AS UL AND ASME WERE "RECOGNIZED" STANDARDS-MAKING BODIES IN OUR VIEW. U.S. REPLIED THEY DEFINITELY WERE.

RETROACTIVITY: GOJ AGREED TO "REFLECT" ON WHETHER IT WOULD BE BETTER TO CHANGE THE PRESENT LANGUAGE, WHICH WE FEAR MIGHT BE INTERPRETED TO REQUIRE UNILATERAL CHANGES IN NON-CONFORMING STANDARDS, OR TO WORK FOR AN AGREED INTERPRETATION, LEAVING THE LANGUAGE ITSELF UNCHANGED.
S AND D TREATMENT FOR LDCS: GOJ AGREED THAT STANDARDS CODE IS NOT A GOOD CANDIDATE FOR S AND D, BUT QUESTIONED WHETHER MANY LDCS WOULD JOIN IN ANY CASE. AMB. YEUTTER REPLIED THAT WE BELIEVED THE STANDARDS CODE WOULD BE VERY BENEFICIAL TO LDCS WISHING TO EXPAND EXPORTS IN DC
CONFIDENTIAL

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PAGE 03 TOKYO 11560 02 OF 04 020806Z

MARKETS, AND THAT MANY JWOULD JOIN THE CODE.
RECIPROCITY/BALANCE: U.S. SAID QUESTION OF RECIPROCITY AND BALANCE CANNOT BE FULLY ADDRESSED UNTIL TEXT IS FINALIZED AND MORE IS KNOWN ABOUT HOW CODE WILL BE IMPLEMENTED. WE STILL BELIEVE CODE WILL BE SELF BALANCING, OR NEARLY SO. U.S. ALSO EXPLAINED LEGAL AND POLITICAL ELEMENTS INVOLVED IN POSSIBLE FEDERAL PREEMPTION OF STATE AND LOCAL JURISDICTION OVER STANDARDS AND OUTLINED STUDIES BEING CONDUCTED BY ANSI AND INTER-AGENCY GROUP ON HOW CODE MIGHT BE IMPLEMENTED IN U.S. AMB. YEUTTER SUMMARIZED BY SAYING THAT PROBLEM OF BALANCE PERCEIVED BY GOJ IS MORE APPARENT THAN REAL. JAPANESE NOTED U.S. EXPLANATIONS.

DISPUTE SETTLEMENT: AMB. YEUTTER SAID IT IS TIME TO LOOK AT DISPUTE SETTLEMENT ON A GENERIC BASIS. HE EX-

PLAINED THAT WE WANT TO GET DISPUTE-SETTLEMENT DISCUSSIONS GOING IN NTM GROUP BEFORE GATT REFORM GROUP IS FORMED IN ORDER TO RETAIN DC LEVERAGE OVER OUTCOME. HE INVITED GOJ TO HOLD FURTHER DISCUSSIONS WITH US ON THIS MATTER, AS WE HAD ALREADY DONE WITH THE EC. JAPANESE AGREED THAT DISPUTE SETTLEMENT SHOULD BE KEPT OUT OF THE GATT REFORM GROUP IF AT ALL POSSIBLE, AND PROMISED TO GIVE INCREASED ATTENTION TO THE DISPUTE SETTLEMENT ISSUE.

SECTION 22F: JAPANESE EXPLAINED THEIR WISH TO INCLUDE BOILERPLATE RE RIGHTS AND OBLIGATIONS UNDER THE GATT AS AN EFFORT TO INSURE THAT CODE IS VIEWED AS AN ADDITION TO, AND NOT IN LIEU OF, PRESENT GATT PROVISIONS. U.S. (KELLY) REPLIED THAT CODE DOES INDEED AFFECT RIGHTS AND OBLIGATIONS UNDER THE GATT, E.G., DISCRIMINATORY SANCTIONS, IF THESE ARE AGREED. AMB. YEUTTER EXPLAINED THAT WE WANT TO MAKE SURE THAT ADHERENTS TO THE CODE DO NOT "FORUM SHOP" BETWEEN THE CODE AND THE GATT IN ORDER TO FIND THE BEST DEAL. U.S. AND JAPANESE AGREED THAT THIS IS A DRAFTING PROBLEM THAT WE SHOULD BE ABLE TO WORK OUT.

AGRICULTURAL STANDARDS: AMB. YEUTTER STATED THAT EVEN EC AGREED THAT STANDARDS CODE SHOULD COVER BOTH INDUSTRIAL AND AGRICULTURAL STANDARDS. AZUMA OF MFA REPLIED THAT

CONFIDENTIAL

PAGE 04 TOKYO 11560 02 OF 04 020806Z

HIS MINISTRY AND MHW WILL HAVE "PROBLEMS" APPLYING THE CODE'S CONSULTATION PROCEDURES TO THEIR STANDARDS-MAKING ACTIVITIES. AMB. YEUTTER REPLIED THAT OPEN COMMENT ON PROPOSED STANDARDS IS GOOD PUBLIC POLICY IN ANY COUNTRY, AND IS THE HEART OF AN EFFECTIVE STANDARDS CODE.

12. QRS: DISCUSSION OF QRS LED OFF MORNING SESSION
JULY 30. AMB. YEUTTER BEGAN BY TELLING GOJ THAT ILLEGAL QRS, WHETHER THEY BE THOSE OF JAPAN OR ANY OTHER COUNTRY,

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 TOKYO 11560 03 OF 04 020830Z

ACTION EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

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TO SECSTATE WASHDC 1273

INFO USDEL MTN GENEVA

USMISSION GENEVA

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 3 OF 4 TOKYO 11560

CANNOT BE EXPECTED TO CONTINUE BEYOND THE MTN. IT THEREFORE BEHOOVES AFFECTED COUNTRIES TO TART MAKING PLANS TO ELIMINATE THEM. THE U.S. WOULD BE WILLING TO CONSIDER ON A CASE-BY-CASE BASIS PROPOSALS FOR COMPENSATION IN LIEU OF REMOVAL, BUT WE WOULD NOT ENCOURAGE THIS. CONTINUATION OF QRS WOULD BE COUNTRARY TO THE TRADE LIBERALIZATION SPIRIT OF THE MTN, SO A MOST PERSUASIVE ARGUMENT WOULD HAVE TO BE MADE FOR THEIR CONTINUATION. WE WISH TO SEE ILLEGAL QRS ELIMINATED PROMPTLY. AMB. YEUTTER WARNED THAT IF TIMELY PROGRESS IS NOT MADE ON THIS ISSUE, COMPLAINTS UNDER SECTION 301 OF U.S. TRADE ACT ARE ALMOST INEVITABLE. HE ASKED THAT GOJ AGREE TO OUR REQUEST OF MARCH 30 THAT THEY CONSULT WITH US REGARDING THIER REMAINING QRS.

13. AZUMA OF MAF RESPONDED THAT GOJ IS RESTRAINED BY DOMESTIC POLITICAL PRESSURES FROM MOVING ON AGRICULTURAL QRS. GOJ WOULD LIKE TO CONSULT WITH US, HE SAID, BUT WOULD FIND IT EASIER IF NTBS OTHER THAN QRS WERE ALSO CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 11560 03 OF 04 020830Z

DISCUSSED AT THE SAME TIME.

14. U.S. (NEWKIRK) RESPONDED THAT PARALLEL PROCEDURES FOR CONSULTATIONS ON "OTHER PRODUCTS" HAD BEEN AGREED ONLY FOR QRS. WHEN PROCEDURES FOR CONSULTATIONS ON OTHER NTBS ARE AGREED UPON, WE WILL WANT TO TALK TO THE JAPANESE ABOUT THEM ALSO.

15. MIZOGUCHI (MOFA) THEN ASKED IF U.S. AGRICULTURAL QRS (I.E. SECTION 22 QUOTAS AND THE BEEF VRAS) WILL BE NEGOTIATED IN THE MTN. AMB. YEUTTER REPLIED THAT THESE ITEMS WERE DEFINITELY ON THE TABLE IN GENEVA, THOUGH ANY CHANGES THAT MIGHT BE MADE IN SUCH PROGRAMS WILL OBVIOUSLY DEPEND ON CONCESSIONS OFFERED IN RETURN.

16. CUSTOMS: GOJ SHOWED GREAT EAGERNESS TO DISCUSS CUSTOMS QUESTIONS. THEIR MAIN AREAS OF INTEREST WERE VALUATION, ASP PARTICULARLY AND FINAL LIST. ON VALUATION, THE GOJ'S BASIC POSITION IS THAT THOSE NOT NOW IN COMPLIANCE WITH GATT ART. VII (I.E. THE U.S.) SHOULD MOVE INTO COMPLIANCE DURING THE MTN. THEY ALSO RESTATED THEIR POSITIN THAT A CUSTOMS AGREEMENT IN THE MTN COULD BE CONSIDERED SELF BALANCING. ON ASP/FINAL LIST, GOJ INDICATED THAT SINCE ASP AND FINAL LIST ARE NOT IN CONFORMITY WITH ART. VII. IT SHOULD NOT BE NECESSARY TO PAY COMPENSATION FOR THEIR ELIMINATION.

17. U.S. (KELLY) REPLIED THAT WE WOULD HAVE TO BE ASSURED OF COMPENSATION BEFORE MOVING TO BDV AND/OR ELIMINATING ASP AND FINAL LIST. THE LEGAL AND TECHNICAL PROBLEMS OF MOVING TO BDV FOR THE U.S. WOULD BE VERY SUBSTANTIAL. WE WONDERED WHETHER GOJ'S INTEEST WAS IN GAINING ELIMINATION OF ASP AND FINAL LIST "FOR FREE" IF U.S. WERE TO ADOPT BDV. IF THAT WERE THE CASE, GOJ SHOULD BE UNDER NO ILLUSION THAT WE WILL GIVE UP ASP AND FINAL LIST WITHOUT COMPENSATION. HE CITED PRECEDENT OF KR WHERE COMPENSATION ON ASP WAS NEGOTIATED.

18. GOVERNMENT PROCUREMENT: MIZOGUCHI BEGAN THIS DISCUSSION BY SAYING THAT JAPAN WAS CURRENTLY REVIEWING ITS PSPOSITION ON THIS ISSUE AND HAD NO SET VIEWS. SAKOMIZU
CONFIDENTIAL

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PAGE 03 TOKYO 11560 03 OF 04 020830Z

(CUSTOMS BUREAU, MOF) THEN PROVIDED SOME BRIEF GENERAL COMMENTS PRESUMABLY EXPRESSING SOME INITIAL VIEWS OF HSI MINISTRY ON THE ISSUE, I.E. THAT UPON REVIEW OF THE OECD DRAFT INSTRUMENT IT MAY BE NECESSARY TO "START FROM SCRATCH" IN THE MTN CONTEXT: THAT, UNLIKE THE OECD EXERCISE, THE VIEWS OF THE LDGS MUST NOT BE TAKEN INTO ACCOUNT, THAT JAPAN WAS PARTICULARLY INTERESTED IN THE ABOLITION OF THE BUY AMERICA PROVISIONS, AND THAT THE GOJ PROCUREMENT SYSTEM WAS BASED ON THE PRINCIPLE OF NON-DISCRIMINATION BETWEEN FOREIGN AND EOMESTIC SUPPLIERS. HE STATED THAT THE OFFICIAL JAPANESE POITION WILL BE READY EARLY THIS FAL AND THAT SUBSEQUENTLY JAPAN WOULD BE PREPARED TO CONSULT WITH US FURTHER AND PARTICIPATE POSITIVELY ON THIS ISSUE.

19. AMB. YEUTTER THEN DESCRIBED THE GENERAL DIMENSIONS OF THE GOVERNMENT PROCUREMENT MARKET OF THE DEVELOPED COUNTRIES AND THE BENEFITS THAT JAPAN WOULD OBTAIN FROM THE LIBERALIZATION WE HOPE TO OBTAIN IN THE CODE. HE EXPRESSED CONCERN THAT THERE WOULD BE NO POSSIBILITY OF OBTAINING AN AGREEMENT IN THIS AREA BY THE END OF 1977 IF WE HAD TO START FROM SCRATCH AS SAKOMIZU SUGGESTED. TO ACHIEVE AN AGREEMENT WE WOULD HAVE TO MOVE IN A TIMELY FASHION RESOLVING THE REMAINING DIFFERENCES AMONG THE DEVELOPED COUNTRIES BY CONTINUING DELIBERATIONS IN THE OECD WHILE AT THE SAME TIME BRINGING IN THE LDCS IN THE MTN FORUM IN INITIALLY, AT LEAST, A LARGELY/EDUCATIONAL EXERCISE. HE ASSURED THE JAPANESE THAT BUY AMERICA WOULD BE A SUBJECT FOR NEGOTIATION.

20. AMB. YEUTTER PROVIDED TWO EXAMPLES (NIPPON TELEPHONE AND TELEGRAPH CASE AND A COMPLAINT BY ALLIS-CHALMERS) WHICH SUGGESTED THAT GOJ PROCUREMENT WAS NOT IN REALITY AS NON-DISCRIMINATORY AS THE JAPANESE SIDE CONTENDED. THESE EXAMPLES POINTED OUT FURTHER THE NEED FOR A GOVERNMENT PROCUREMENT CODE. POMERANZ THEN INFORMED THE JAPANESE OF THE RESULTS OF THE RECENT BILATERALS ON THIS SUBJECT WITH THE EC, CANADA AND SWEDEN (SEE SEPARATE TELS FOR DETAILS OF THESE BILATERALS).

21. AMB. YEUTTER PROVIDED A DETAILED EXPLANATION OF OUR
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PAGE 04 TOKYO 11560 03 OF 04 020830Z

POSITION ON THE VARIOUS ASPECTS OF THE CODE COVERING TRANSPARENCY, COVERAGE, THRESHOLD, SINGLE TENDERING, SAFEGUARDS, SPECIAL AND DIFFERENTIAL TREATMENT AND RULES OF ORIGIN. HE ASSURED THE JAPANESE THAT WE ARE SATISFIED WE CAN IMPROVE THE INTERNATIONAL TRADING SYSTEM WITH THE CODE AND ARE CONSEQUENTLY PREPARED TO WORK HARD FOR IT AND WOULD ENCOURAGE JAPAN'S ACTIVE INVOLVEMENT.

CONFIDENTIAL

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PAGE 01 TOKYO 11560 04 OF 04 020837Z

ACTION EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

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C O N F I D E N T I A L SECTION 4 OF 4 TOKYO 11560

22. MIZOGUCHI RAISED THE ISSUE OF THE INCLUSION OF STATE GOVERNMENTS IN THE CODE REFERRING TO SOME RECENT BUY NEW YORK LEGISLATION. AMB. YEUTTER EXPLAINED THE "BEST ENDEAVORS" PROVISIONS REGARDING STATE GOVERNMENTS AND THE NON-DISCRIMINATORY SYSTEMS EXISTING IN MOST IMPORTANT STATES. HE POINTED OUT EVEN ASSUMING THE WORST OUTCOME REGARDING THE STATES, JAPAN WOULD STILL HAVE SEVEN BILLION DOLLARS OF USG FEDERAL PROCUREMENT AS A POTENTIAL UNIVERSE. THIS FAR EXCEEDS THE UNIVERSE OF JAPANESE PROCUREMENT THAT WILL BE AVAILABLE.

23. MIZOGUCHI ASKED HOW WE WOULD TREAT SIGNERS VS. NON-SIGNERS OF THE CODE. WE REPLIED THAT IT WOULD NOT BE TOO DIFFICULT A PROBLEM IF ALL THE KEY COUNTRIES BECOME SIGNATORIES. KITAJIMA (MFA) THEN ASKED A SERIES OF QUESTIONS REGARDING WHAT PROGRESS WE MADE WITH THE EC DURING THE RECENT BILATERALS ON THOSE TOPICS WERE THERE WERE STILL DIFFERENCES BETWEEN THE U.S. AND EC POSITIONS REGARDING CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 11560 04 OF 04 020837Z

TRANSPARENCY, THRESHHOLD, SAFEGUARDS, RULES OF ORIGIN, DISPUTE SETTLEMENT AND COVERAGE. WE PROVIDED A DETAILED ACCOUNT OF THE CURRENT STATE OF PLAY BETWEEN THE U.S. AND EC ON THESE ISSUES. IN RESPONSE TO TWO SEPARATE REQUESTS MADE BY MEMBERS OF THE JAPANESE DELEGATION IN PRECEDING OUTSIDE CONVERSATIONS, POMERANZ ENDED THE DISCUSSION BY EMPHASIZING THE IMPORTANCE TO JAPAN OF SECURING AN EFFECTIVE GOVERNMENT PROCUREMENT CODE.

24. TARIFFS: THE U.S. DISTRIBUTED COPIES OF CHARTS AND GRAPHS DEMONSTRATING THAT JAPAN STOOD TO GAIN MORE FROM A LIBERAL AND PREDOMINANTLY LINEAR TARIFF FORMULA THAN FROM A SHALLOW CUT WITH A HEAVY HARMONIZATION ELEMENT. AMB. YEUTTER USED THESE MATERIALS AS A BASIS FOR A STRONG PRESENTATION CALLING ON THE JAPANESE TO TABLE A FORMULA THAT AT LEAST FALLS BETWEEN THE U.S. AND EC FORMULAE, NOT ON (SUCH AS $Z \text{ EQUALS } .4X \text{ PLUS } 3$) THAT FALLS BELOW EVEN THE EC FORMULA IN TERMS OF LIBERALIZATION. HE ARGUED THAT FLOATING EXCHANGE RATES HAVE MADE TARIFFS LESS SIGNIFICANT IN TRADE TERMS THAN PREVIOUSLY, SO THERE IS NOT NO REASON WHY THE TOKYO ROUND CUT SHOULD NOT BE AT LEAST AS LARGE AS THE KR CUT WHICH TOOK PLACE WHEN EXCHANGE RATES WERE FIXED. ON EXCEPTIONS, THE U.S. ARGUED THAT A DEEP CUT DID NOT NECESSARILY IMPLY MANY EXCEPTIONS. IN FACT, A LIBERAL FORMULA GIVES MORE FLEXIBILITY TO OFFER LESS-THAN FORMULA CUTS TO TAKE CARE OF SPECIAL SITUATIONS OF IMPORT SENSITIVITY.

25. THE GOJ (KUSAKABE OF MITI) STATE THAT THEIR POSITION ON TARIFFS HAD THREE ELEMENTS. FIRST, A LARGE HARMONIZATION ELEMENT IS NECESSARY BECAUSE THE EXPORT INDUSTRIES WHICH FACE HIGH TARIFFS ARE MORE VOCAL IN THEIR DEMANDS FOR TARIFF REDUCTION THAN THOSE WHICH FACE LOW TARIFF BARRIERS. JAPAN'S VIEW OF THE FORMULA WAS "QUALITATIVE, NOT QUANTITATIVE." SECOND, EXCEPTIONS PROCEDURES WILL HAVE TO BE NEGOTIATED IN PARALLEL WITH THE FORMULA. THIRD, GSP PREFERENCE FOR LDCS MUST BE MAINTAINED. THEREFORE, A TARIFF FLOOR IS BOTH APPROPRIATE AND FEASIBLE.

26. U.S. (KELLY) RESPONDED BY REITERATING ARGUMENTS FIRST
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PAGE 03 TOKYO 11560 04 OF 04 020837Z

PRESENTED BY AMB. YEUTTER WHICH CLEARLY DEMONSTRATED JAPAN'S SELF-INTEREST LAY IN A DEEP AND LINEAR CUT. HE ARGUED THAT IMPORT SENSITIVE INDUSTRIES WILL COMPLAIN ALMOST AS LOUDLY OVER A SMALLER CUT AS OVER A LARGER ONE, SO THERE IS NO REASON TO PUSH FOR A SMALLER CUT ON THEIR ACCOUNT. HE SAID WE ARE WILLING TO DISCUSS EXCEPTIONS PROCEDURES IN A GENERAL WAY CONCURRENTLY WITH FORMULA NEGOTIATIONS, BUT WE DON'T WANT TO GET INTO GREAT DETAIL BEFORE THE FORMULA IS ESTABLISHED. WE EXPECT TO BE IN A POSITION TO BEGIN BILATERAL AND PLURILATERAL TALKS ON EXCEPTIONS IN THE FALL. ON THE ISSUE OF MAINTAINING PREFERENCE MARGINS FOR LDCS, HE ARGUED THAT BOUND MFN CUTS ON ITEMS OF INTEREST TO THE LDCS ARE FAR MORE VALUABLE THAN GSP, WHICH IS UNBOUND AND RESTRICTED. KUSAKABE RESPONDED THAT IMPORT-SENSITIVE JAPANESE IN-

DUSTIRES ARE LIKELY TO BE MORE DEPTH-OF-CUT SENSITIVE THAN THOSE IN THE U.S. HE ASKED HOW WE INTTENDED TO HANDLE S AND D IN THE TARIFFS AREA. KELLY REPLIED THAT WE WOULD CONSIDER GIVING-GREATER-THAN-FORMULA CUTS ON AN MFN BASIS ON PRODUCTS OF SPECIAL INTEREST TO LDCS.

27. AMBASSADOR YEUTTER ALSO HELD USEFUL INDIVIDUAL DISCUSSIONS WITH KEY OFFICIALS IN MOF, MFA, MITI AND WITH MINISTER OF AGRICULTURE ABE. WE ARE REPORTING THESE SEPARATELY.
SHOESMITH

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